IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE JURISIDICTION

WRIT PETITION NO.10877 OF 2004

Smt.Suman Vishnu Deshmukh
and others ...Petitioners

Vs.

Santosh Prabhakar Zunjarrao
and others ...Respondents

....

Ms.Gauri Godse for Petitioners

....

CORAM : B.H.MARLAPALLE,J.

DATE : FEBRUARY 8,2005

P.C.:

1. Heard Ms.Godse, the learned counsel for the petitioners.

2. An application Exh.31/D came to be filed before the lower appellate Court in Civil Appeal No. 63 of 1999 on or about 31st March, 2004 praying for dismissal of the said appeal on the ground that the present respondent no.1(a) could not have been brought on record as L.R. of the original respondent late Shri.Santosh s/o Prabhakar Zunjarrao as she was remarried. By the impugned order dated 29.10.2004 the said application has been rejected.

3. The lower appellate Court observed that even if the contentions of the petitioners were accepted the

rights of respondent no.1(b) and respondent nos.1 (c) in contesting the appeal would continue and therefore, the said order does not call for any interference in this petition under Article 227 of the Constitution of India.

4. Petition is therefore, rejected summarily. However, if the petitioners submit an application for deletion of respondent no.1(a) on the ground of her second marriage and provide material particulars, the said application be considered on its own merits and without prejudice to her right to contest the appeal as a natural guardian of respondent no.1(b).

[B.H.MARLAPALLE,J.]